

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

BLUE SPIKE, LLC,

Plaintiff

V.

AUDIBLE MAGIC CORPORATION

*Defendant*

Civil Action No. 6:15-CV-00584-RWS-CMC

AUDIBLE MAGIC CORPORATION,

*Counterclaim Plaintiff*

V.

BLUE SPIKE, LLC, BLUE SPIKE, INC.  
and SCOTT A. MOSKOWITZ

### Counterclaim Defendants

**DECLARATION OF GABRIEL M. RAMSEY IN SUPPORT OF  
AUDIBLE MAGIC CORPORATION'S RESPONSE AND STATEMENT OF NON-  
OPPOSITION TO MOTION OF THE ELECTRONIC FRONTIER FOUNDATION TO  
INTERVENE AND TO UNSEAL COURT RECORDS**

I, Gabriel M. Ramsey, declare under penalty of perjury that the following is true and correct:

1. I am an attorney at the law firm Orrick, Herrington & Sutcliffe, LLP, counsel of record for defendant Audible Magic Corp. (“Audible Magic”). I have personal knowledge of the facts set forth in this declaration, or access to information and records allowing me to confirm these facts. If called as a witness, I could testify competently to these facts under oath.

2. Attached hereto as **Exhibit 1** is a true and correct copy of a March 17, 2016 email from counsel for EFF to counsel for Audible Magic.

3. Attached hereto as **Exhibit 2** is a true and correct copy of a March 29, 2016 email from counsel for Audible Magic to counsel for EFF and Blue Spike. Blue Spike did not respond to this communication.

4. In October 2015, in response to Blue Spike’s motion to stay the entire case, the Court continued all case deadlines and the parties attempted to resolve the matter with the assistance of the Special Master appointed in this case. Audible Magic attempted diligently to resolve this matter on reasonable terms, which would avoid the need for the parties to expend resources on further litigation. Blue Spike was not willing to do so. Audible Magic has continued its efforts to resolve this matter on reasonable terms, and has communicated by email to Blue Spike in that regard, but the communication has gone unanswered.

I declare under penalty of perjury under the laws of the United States of America that the foregoing facts are true and correct based on my own personal knowledge.

Executed on April 18, 2016 in San Francisco, CA.

A handwritten signature in black ink, appearing to read 'Gabriel M. Ramsey', written over a horizontal line.

Gabriel M. Ramsey